

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

JUSTIN HEATH WEBSTER,

Plaintiff,

v.

SEAN M. STACY,

Defendant.

Case No.: 5:20-cv-00192-MHH-HNJ

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On February 3, 2020, the undersigned magistrate judge granted the plaintiff's application to proceed *in forma pauperis*, ordering the plaintiff to pay an initial partial filing fee of \$4.67, and to return a signed Prisoner Consent Form, both within thirty (30) days. (Doc. 3). The Order further notified the plaintiff that the failure to comply could result in the dismissal of this action for failure to prosecute. On March 9, 2020, the plaintiff returned a signed Prisoner Consent Form, but failed to remit his initial partial filing fee. (Doc. 4). Therefore, on May 7, 2020, the undersigned entered an order instructing the plaintiff he bore the obligation to ensure payment of the initial partial filing fee, allowing him an additional fifteen (15) days to pay the initial partial filing fee, and again notifying the plaintiff that the failure to pay his initial partial filing fee could result in the dismissal of this action. (Doc. 5). That additional time has elapsed and the plaintiff has failed to submit his initial partial filing fee or otherwise respond to the magistrate judge's order.

Accordingly, the undersigned **RECOMMENDS** that this action be **DISMISSED WITHOUT PREJUDICE** due to the plaintiff's failure to prosecute.

NOTICE OF RIGHT TO OBJECT


The plaintiff may file specific written objections to this report and recommendation. The plaintiff must file any objections with the Clerk of Court within fourteen (14) calendar days from the date the report and recommendation is entered. Objections should specifically identify all findings of fact and recommendations to which objection is made and the specific basis for objecting. Objections also should specifically identify all claims contained in the complaint that the report and recommendation fails to address. Objections should not contain new allegations, present additional evidence, or repeat legal arguments.

Failing to object to factual and legal conclusions contained in the magistrate judge's findings or recommendations waives the right to challenge on appeal those same conclusions adopted in the district court's order. In the absence of a proper objection, however, the court may review on appeal for plain error the unobjected to factual and legal conclusions if necessary in the interests of justice. 11th Cir. R. 3-1.

Upon receipt of objections, a United States District Judge will review *de novo* those portions of the report and recommendation to which specific objection is made and may accept, reject, or modify in whole or in part, the undersigned's findings of fact and recommendations. The district judge also may refer this action back to the undersigned with instructions for further proceedings.

The plaintiff may not appeal the magistrate judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. The plaintiff may only appeal from a final judgment entered by a district judge.

DONE this 4th day of June, 2020.



HERMAN N. JOHNSON, JR.
UNITED STATES MAGISTRATE JUDGE